

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY

PHIL MCCALLEY, on behalf of himself
and all others similarly situated,

Plaintiff,

v.

SAMSUNG ELECTRONICS AMERICA,
INC. and SAMSUNG ELECTRONICS CO.
LTD.,

Defendants.

Civil Action No. 07-2141 (JAG)

ORDER

GREENAWAY, JR., U.S.D.J.

This matter comes before this Court on the motions of Defendants Samsung Electronics America, Inc. and Samsung Electronics Co., LTD (collectively “Defendants”), to dismiss for lack of subject matter jurisdiction, pursuant to FED. R. CIV. P. 12(b)(1), and for failure to state a claim upon which relief can be granted, pursuant to FED. R. CIV. P. 12(b)(6); and it appearing that this Court reviewed the parties’ submissions; and for the reasons set forth in the accompanying Opinion, and good cause appearing,

IT IS on this 31st day of March, 2008,

ORDERED that Defendants’ motion to dismiss for lack of subject matter jurisdiction (Docket Entry No. 11), pursuant to FED. R. CIV. P. 12(b)(1), is denied; and it is further

ORDERED that Defendants’ motion to dismiss for failure to state a claim upon which relief can be granted (Docket Entry No. 11), pursuant to FED. R. CIV. P. 12(b)(6), is granted in part, and denied in part; and it is further

ORDERED that Plaintiff's breach of warranty claims are dismissed, without prejudice; and it is further

ORDERED that Plaintiff's claim, pursuant to the Magnuson-Moss Warranty Act, 15 U.S.C. §§ 2301 - 2312, is dismissed, without prejudice; and it is further

ORDERED that Plaintiff's claim, pursuant to the New Jersey Consumer Fraud Act, N.J. STAT. ANN. § 56:8-2, survives dismissal; and it is further

ORDERED that Plaintiff's claims, pursuant to the unfair and deceptive acts and practices statutes of forty-four states and the District of Columbia, are dismissed, without prejudice; and it is further

ORDERED that Plaintiff's unjust enrichment claim, is dismissed, without prejudice; and it is further

ORDERED that a copy of this Order be served on all parties within seven (7) days of the date of entry of this Order.

S/Joseph A. Greenaway, Jr.
JOSEPH A. GREENAWAY, JR., U.S.D.J.